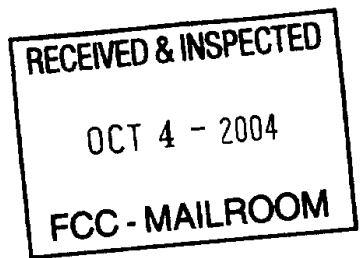


# Public Service Commission Of West Virginia



201 Brooks Street, P. O. Box 812  
Charleston, West Virginia 25323

Edward H. Staats  
Chairman



September 30, 2004

**DOCKET FILE COPY ORIGINAL**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A306  
Washington, D.C. 20554

Irene M. Flannery  
Vice President, High Cost & Low Income Division  
Universal Service Administrative Company  
2000 L Street, N.W., Suite 200  
Washington, D.C. 20036

Re: Certification of High Cost Support Pursuant to 47 C.F.R. §§ 54.313,  
54.314 and 54.316, CC Docket No. 96-45

Dear Ms. Dortch and Ms. Flannery:

The Public Service Commission of West Virginia (WVPSC) hereby submits its annual certification in accordance with 47 C.F.R. §§ 54.313, 54.314 and 54.316. These rules of the Federal Communications Commission (FCC) require state certifications to allow non-rural and rural incumbent local exchange carriers, or eligible telecommunications carriers to receive federal universal service support pursuant to 47 C.F.R. §§ 54.301 - 54.314.

I. Use of High Cost Support Certification – All Carriers.

As required by 47 C.F.R. §§ 54.313(a) and 54.314(a), the WVPSC certifies that the following carriers in West Virginia are eligible to receive federal support during January 1, 2005 to December 31, 2005:

1. West Virginia PCS Alliance, L.C. dba NTELOS
2. Citizens Telecommunications of West Virginia, Inc.
3. Hardy Telecommunications, Inc. (CLEC)
4. Hardy Telecommunications, Inc. (ILEC)
5. Verizon West Virginia Inc.
6. ALLTEL Communications, Inc.
7. Spruce Knob Seneca Rocks Telephone, Inc.
8. Gateway Telecom, LLC, dba StratusWave Communications
9. West Side Telecommunications
10. Armstrong Telephone Company - West Virginia
11. Armstrong Telephone Company - Northern Division
12. Easterbrooke Cellular Corporation
13. Highland Cellular, LLC
14. FiberNet, LLC
15. Sprint Corporation
16. War Telecommunications

Attachment A to this letter lists these carriers, each carrier's SAC, whether the carrier is rural or non-rural, and whether the carrier is an incumbent or competitive carrier. The WVPSC further certifies that these carriers will use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended. This certification is the product of formal proceedings before the WVPSC. *See* "Commission Order," *General Investigation Regarding Certification of Federal Universal Service Funding for Eligible Telecommunications Carriers in West Virginia*, Case No. 04-1260-T-GI (September 30, 2004) (copy attached). With respect to Verizon West Virginia Inc. (Verizon WV), all federal universal service support received by Verizon WV is used to reduce monthly rates for single-line business and residential customers in West Virginia, and for network upgrades in high-cost areas, pursuant to a stipulation entered into by Verizon WV, the WVPSC Staff and the WVPSC's Consumer Advocate Division, and approved by the WVPSC. *See* "Commission Order," *Verizon WV, Inc.*, Case No. 04-0098-T-P (Feb. 10,

2004) (copy attached).

II. Rate Comparability Certification – Non-rural ILEC Service Areas.

A. Non-rural ILEC Rate Comparability Certification.

Verizon WV is West Virginia's only non-rural incumbent local exchange carrier (ILEC). As required by 47 C.F.R. § 54.316(a), the WVPSC certifies that the rates charged by Verizon WV in rural areas of its ILEC service area are reasonably comparable to rates charged in urban areas nationwide. This certification is the result of formal proceedings before the WVPSC. See "Commission Order" Case No. 04-1260-T-GI (September 30, 2004) (copy attached). Pursuant to the Stipulation entered into by Verizon WV, the WVPSC Staff, and the WVPSC's Consumer Advocate Division, and approved by the WVPSC, the WVPSC adopted the following findings:

1. The classification of Verizon WV's wire centers as "rural" and "urban" as set forth in Attachment A of the Stipulation is reasonable. This classification differs from a strict application of the definition of "rural areas" found in 47 C.F.R. § 54.316(c), however, it closely matches unbundled network element (UNE) zone determinations previously made by the WVPSC and has been recommended by the parties for use here.

2. The statewide average E-911 rate for non-MSA counties of \$2.02 per month as set forth in Attachment C of the Stipulation is reasonable. This statewide average E-911 rate is used in the rate template required under 47 C.F.R. § 54.316(b), and set forth in Attachment B of the Stipulation. The rates included in the rate template for each residential calling plan are also reasonable.

3. The rates charged by Verizon WV to residential customers in rural areas of its ILEC service area are comparable to rates charged in urban areas for purposes of 47 U.S.C. § 254(e). As set forth in Attachment B of the Stipulation, three of the four residential calling plans available to all Verizon-WV customers in West Virginia, including those in rural areas, have basic rates which fall below the national urban benchmark of \$34.16 per month set forth in the FCC's *Reference Book on Rates, Price Indices and Expenditures for Telephone Service*, dated July 1, 2004. The fourth calling plan, Frequent Caller, has basic rates that are \$3.44 above the benchmark. Nevertheless, the WVPSC believes that all of Verizon WV's rates in rural areas are reasonably comparable to rates charged in urban areas for the following reasons:

a. Since 1988 the rates charged to residential customers in West Virginia have been uniform throughout the state, that is, they do not vary based on whether the customer is located in an urban wire center or a rural wire center.

b. "Local calling areas" are uniformly defined throughout West Virginia, and consist of all adjacent wire centers and wire centers within 22 air miles of the customer's home wire center. This means that every residential customer in every Verizon WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.

c. Every residential customer in every Verizon WV wire center has the choice of the same four calling plans. Unlike rate plans in other states, residential customers in rural areas are not forced to subscribe to service under only one rate plan. Since the rate plans are optional, no customer is forced to purchase service under any particular plan. Each customer can choose which plan is best for his or her calling needs.

d. Accordingly, Plan 4 is an optional calling plan that provides flat-rate local calling across a very large area. Customers do not have to choose that plan, since there are other alternative calling plans available from Verizon WV and competitive carriers. Moreover, Plan 4 gives customers flat-rate local calling for calls that are normally billed as long distance calls in other, more urban states.

*See Commission Order, General Investigation Regarding Certification of Federal Universal Service Funding for Eligible Telecommunication Carriers in WV, Case No. 04-1260-T-PC, (September 30, 2004).*

B. Additional Rate Comparability Certification – Competitive ETCs.

The WVPSC has also reviewed the residential rates charged by competitive eligible telecommunications carriers (CETCs) in rural areas of West Virginia served by Verizon WV and determined that the following CETCs' rates are reasonably comparable to urban rates nationwide:

1. West Virginia PCS Alliance, L.C. dba NTELOS
2. ALLTEL Communications, Inc.
3. Gateway Telecom, LLC, dba StratusWave Communications

Ms. Dortch  
Ms. Flannery  
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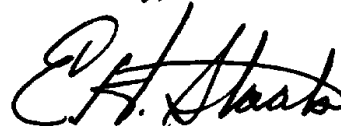
4. Easterbrooke Cellular Corporation
5. Highland Cellular, LLC
6. FiberNet, LLC
7. Sprint Corporation

As noted in Attachment B to this letter, all these carriers offer residential rates to customers in rural wire centers served by Verizon WV that fall below the national urban benchmark of \$34.16 per month set forth in the FCC's *Reference Book on Rates, Price Indices and Expenditures for Telephone Service*, dated July 1, 2004. To the extent these carriers also offer calling plans with rates that are above the national urban benchmark, such plans are strictly optional and often include calling features that are not federally supported (such as long distance calling).

III. Conclusion.

On behalf of the people of the West Virginia, the WVPSC expresses its appreciation for the Commission's efforts in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of customers and make those rates more comparable to rates paid by consumers in other parts of the Nation.

Sincerely,



E. H. Staats  
Chairman

EHS/ljm

Enclosures

**ATTACHMENT A**  
Rural and Non-Rural Carriers Certified to Receive High Cost Support

Carrier	SAC <sup>1</sup>	Rural/ Non-Rural <sup>2</sup>	Type <sup>3</sup>
West Virginia PCS Alliance, L.C. dba NTELOS	209909	N	C
Citizens Telecommunications of West Virginia, Inc.	200271	R	I
Citizens Telecommunications of West Virginia, Inc.	204338	R	I
Citizens Telecommunications of West Virginia, Inc.	204339	R	I
Hardy Telecommunications, Inc. (CLEC)	200259	R	C
Hardy Telecommunications, Inc. (ILEC)	200259	R	I
Verizon West Virginia, Inc.	205050	N	I
ALLTEL Communications, Inc.	209008	N	C
Spruce Knob Seneca Rocks Telephone, Inc.	200257	R	I
Gateway Telecom, LLC, dba Stratus Wave Communications	209001	N	C
West Side Telecommunications	200277	R	I
Armstrong Telephone Company - West Virginia	200256	R	I
Armstrong Telephone Company - Northern Division	200267	R	I
Easterbrooke Cellular Corporation	209006	R	C
Easterbrooke Cellular Corporation	209006	N	C
Highland Cellular, LLC	209003	R	C
Highland Cellular, LLC	209003	N	C
FiberNet, LLC	209002	N	C
FiberNet, LLC	209002	R	C
Sprint Corporation	209007	N	C
War Telecommunications	200258	R	I

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<sup>1</sup>Study Area Code

<sup>2</sup>R - Rural Carrier; N - Non-Rural Carrier

<sup>3</sup>I- Incumbent; C - Competitive

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 10<sup>th</sup> day of February, 2004.

CASE NO. 04-0098-T-P

VERIZON WEST VIRGINIA, INC.

Consumer Advocate Division's petition to  
initiate proceedings to investigate appropriate  
disposition of Federal Universal Service Support  
Funds for Verizon West Virginia Inc.

**COMMISSION ORDER**

With this order, the Commission approves the Stipulation filed herein.

**BACKGROUND**

On January 27, 2004, the Commission's Consumer Advocate Division (CAD) filed a petition to initiate proceedings to establish the appropriate disposition of federal universal service funds to be received by Verizon West Virginia Inc. (Verizon WV) during 2004. CAD stated that Verizon WV receives high-cost support under the "High-Cost Model" of the Federal Universal Service Fund (FUSF).<sup>1</sup> Carriers are permitted to use universal service support funds only for the provision, maintenance and upgrading of facilities and services for which the support is intended. 47 U.S.C. § 254(e).

CAD represented that beginning with the year 2000, Verizon WV, CAD and Commission Staff (Staff) have reached an agreement on the use of funds Verizon WV receives. Those agreements were submitted to the Commission in the form of stipulations and were approved by the Commission. See, General Investigation re: Verizon WV, Case No. 99-1620-T-GI (February, 8, 2000); General Investigation re: Verizon WV, Case No. 00-

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<sup>1</sup> The FCC has stated that the purpose of federal universal service support is to ensure that telephone rates, especially in rural and high-cost areas are "affordable and reasonably comparable" to rates available in low-cost and urban areas. "Ninth Report and Order and Eighteenth Order on Reconsideration," *I/M/O Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 99-306 (October 21, 1999; Rel. Nov. 2, 1999).

1855-T-PC (February 2, 2001); General Investigation re: Verizon WV, Case No. 01-1646-T-PC (December 28, 2001) and General Investigation re: Verizon WV, Case No. 02-2044-T-PC (January 22, 2003).

CAD indicated that the Federal Communications Commission (FCC) has made changes in the High-Cost Model and the benchmark under which FUSF support is determined. According to CAD, these changes would result in a reduction in Verizon WV's FUSF support for 2004. As such, CAD stated that the credits on customers' bills are too high which will, in turn, result in Verizon WV returning more money to customers than Verizon WV will receive in 2004.

CAD requested that the Commission issue an order expeditiously to establish proper disposition of the FUSF monies received by Verizon WV in 2004.

On January 28, 2004, Verizon WV, CAD, and Staff filed a Stipulation and a joint petition for expedited approval of the Stipulation. The parties represented that the amount of FUSF support to Verizon WV for 2004 has been reduced by \$9.3 million. According to the Stipulation, Verizon WV will modify the amount of FUSF credits in the March 2004 billing cycle. The Stipulation requires Verizon WV to make rural and high-cost infrastructure improvements of \$5.9 million, and to distribute the remainder of the available universal service funding, approximately \$15.4 million, in the form of customer credits. The Stipulation also indicates that during 2004 Verizon WV will apply the same FUSF credit amount per basic service line, irrespective of the type of calling plan the customer has. According to the parties, that provision is a departure from the general structure of the prior stipulations approved by the Commission.

The parties requested expedited consideration of the petition for approval of the Stipulation so that Verizon may make the required modifications in advance of the March 2004 billing cycle.

### **DISCUSSION**

The Commission has reviewed the joint petition and the Stipulation, and agrees that approval should be granted.

### **FINDINGS OF FACT**

1. On January 27, 2004, the CAD filed a petition to initiate proceedings to establish the appropriate disposition of federal universal service funds to be received by Verizon WV during 2004.



2. On January 28, 2004, Verizon WV, CAD, and Staff filed a Stipulation and a joint petition for expedited approval of the Stipulation. The Stipulation sets out the agreement regarding disposition of universal support funds to be received by Verizon WV during 2004.

### **CONCLUSION OF LAW**

It is reasonable for the Commission to approve the joint petition and Stipulation as requested.

### **ORDER**

IT IS, THEREFORE, ORDERED that the Stipulation attached to the petition filed on January 28, 2004, by Verizon WV, the Staff, and the Consumer Advocate Division, (and as described herein and attached hereto), is hereby approved.

IT IS FURTHER ORDERED that the federal universal service support credits as set forth in the Stipulation be effective commencing with Verizon WV's March 2004 billing cycle.

IT IS FURTHER ORDERED that upon entry of this order, this case shall be removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:

Sandra Squire  
Executive Secretary

JMH/sek  
040098c.sca

Attachment A

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

CASE NO. 04-0098-T-P

CONSUMER ADVOCATE DIVISION'S  
PETITION TO INITIATE PROCEEDINGS  
TO INVESTIGATE APPROPRIATE  
DISPOSITION OF FEDERAL  
UNIVERSAL SERVICE SUPPORT FUNDS FOR  
VERIZON WEST VIRGINIA INC.

**STIPULATION**

This Stipulation is entered into this 28th day of January, 2004, by and among Verizon West Virginia Inc. ("Verizon WV"), the Staff of the Public Service Commission ("Staff"), and the Consumer Advocate Division of the Public Service Commission ("CAD") (hereinafter collectively called "the Parties"), by their respective counsel.

WHEREAS, the parties previously entered into a series of Stipulations and Settlements on the annual disposition of federal universal service funds in Cases No. 90-1620-T-CIL, 00-1579-T-CIL and 00-1855-T-PC, 01-1646-T-PC, 02-2044-T-PC, and in the present proceedings;

WHEREAS, on August 9, 2001, the Parties entered into a Stipulation in Case No. 00-0318-T-CIL *et seq.*, in which the Parties agreed *inter alia* (a) to move \$1.5 million formerly embedded in other Verizon WV intrastate rates to the annual federal universal service fund disposition proceedings, and (b) to fix the Verizon WV's under-recovery of 2000 federal universal service credits at \$1.15 million and to exclude this under-recovery from the federal universal service credits approved for 2002;

WHEREAS, the Parties entered into a Stipulation in Case No. 1646-T-PC on December 11, 2001, under which they agreed on Federal Universal Service Credits for Verizon WV's customers for 2002 to be incorporated in the January 1, 2002, billing cycle;

WHEREAS, the Commission approved that Stipulation by Order entered on December 28, 2001;

WHEREAS, under that Stipulation, the Parties agreed that it may be appropriate to consider using a portion of the federal universal service funding in the future to upgrade facilities in rural and high-cost areas served by Verizon WV, and they agreed to meet to discuss doing so; and

WHEREAS, the Parties entered into a Supplemental Stipulation in Case No. 01-1646-T-PC on May 9, 2002, in which the Parties agreed *inter alia* (a) to keep federal universal service billing credits on customers bills at their then-current levels; (b) to use excess federal universal service funds to finance construction and upgrade projects in Verizon WV's rural and high cost areas; and (c) to use certain additional Verizon WV funds to increase the level of other construction and upgrade projects in West Virginia (the "Year 2002 Supplemental Stipulation"); and

WHEREAS, the Commission approved that Stipulation by Order entered on June 25, 2002; and

WHEREAS, most recently, the Parties entered into a Stipulation Regarding Disposition of Federal Universal Service Support Funds For Verizon West Virginia Inc (the "Current Stipulation") and filed a Joint Petition for Expedited Consideration and Approval in Case No. 02-2044-T-PC on December 23, 2002, in which the Parties agreed *inter alia* (a) to continue to meet regularly during 2003 to review the level of actual recovery of universal service credits by Verizon WV and to review and approve specific construction and upgrade projects; (b) to submit reports to the Commission as necessary; and (c) to file a Stipulation or report concerning the use of federal universal service funding for 2004 by early December 2003. Stipulation"); and

WHEREAS, the Commission approved that Stipulation by Order entered on January 22, 2003; and

WHEREAS, the Parties have continued to implement the Stipulations, as applicable, and to abide by the Commission's Orders; and

WHEREAS, the Parties have met and have agreed (a) for the use of federal universal service funding for certain upgrades of facilities in rural and high-cost areas, (b) for the adjustment of "Federal Universal Service Credits" on Verizon WV's customers' monthly bill; and

WHEREAS, when the parties were previously unable to agree, the CAD filed the Petition in this proceeding so that resolution of this pressing matter would not be delayed further; and

WHEREAS, the parties now have been able to resolve their differences; and

WHEREAS, the final financial information is not yet available for a true-up in order to account for the actual recovery of federal universal service funding received by Verizon WV and actual Federal Universal Credits given to customer by Verizon WV in 2003; and

WHEREAS, because of the previous uncertainty in the amount of universal funding that would be received by Verizon WV in 2004 and the late time at which the parties learned of the level of that funding, the parties were not able to resolve their differences until after the beginning of 2004;

NOW, THEREFORE, the Parties do hereby agree and stipulate as follows:

1. Verizon WV's local dial tone rates, beginning March 1, 2004 and ending December 31, 2004, shall be reduced through the application of Federal Universal Service Credits as set forth on Attachment I hereto. The Credits shown on Attachment I were calculated based on an adjustment for the reduction in Federal Universal Service funding for 2004, based on the overpayment of the unadjusted Credits for January and February 2004, and based on the funding to be allocated for rural and high-cost area infrastructure upgrade projects under this Stipulation. The Parties also have now agreed that the amount of the Credits is to be the same for all types of service, per basic service line, irrespective of the type of service plan. This agreement represents a specific and substantial compromise from the Parties' previous positions, on all sides, but one that the Parties will jointly recommend that the Commission approve as a compromise in the public interest.

2. The Federal Universal Service Credits as agreed to herein shall be effective with Verizon WV's March 2004 billing cycle. As soon as the final financial information is available for a true up in order to account for the actual recovery of federal universal service funding received by Verizon WV and actual Federal Universal Service Credits given to customers by Verizon WV in 2003, Verizon WV shall notify the Staff and the CAD. Following receipt of such information, the parties agree to meet to review the cumulative recovery balance existing at the end of 2003 to determine if any adjustments to the Credits are necessary on a going-forward basis. If any such adjustments are necessary, or if agreement is not reached on the issue of such adjustments, the parties agree to expeditiously inform the Commission.

3. The Parties agree that \$5.9 million of federal universal service funds received by Verizon WV shall be allocated to facilities upgrade projects rural and high-cost areas for year 2004.

4. Verizon WV shall account for the capital expenditures funded under this Stipulation separate and apart from its rate base such that in no event may Verizon WV receive earnings on such capital expenditures. Verizon WV shall provide an accounting of those expenditures to the Staff and the CAD, demonstrating that those expenditures were properly made and accounted for, with its reports provided for in Paragraph 5 below.

5. In addition to the progress reports and updates that Verizon WV has previously provided the Staff and the CAD on the facilities upgrades, Verizon WV shall continue to provide the Staff and the CAD with periodic progress reports on the upgrades, including reports on July 20, 2004, January 20, 2005, July 20, 2005 and January 20, 2006, which reports are to include the amount expended as of the end of the preceding quarter and the accounting required by Paragraph 4 above. Verizon WV shall inform the Staff and the CAD of any proposed modifications (including additions and deletions) to the pending projects at the time of each periodic progress report. Verizon WV shall make a good faith effort to make the capital expenditures under Paragraph 5 (including expenditures of the amounts reserved for contingency) and complete all upgrade projects listed on Attachment 2 (as it may be hereafter

modified) no later than December 31, 2004. If Verizon WV is prevented from or delayed in doing so by reason of force majeure or circumstances beyond Verizon WV's control, Verizon WV will so inform the Parties. Any amounts not actually expended within the calendar year shall be carried over for use in subsequent years. "Force majeure," as used in this Stipulation, includes, without limitation, acts of God, strikes, labor disputes, acts of public enemies or terrorists, governmental orders, actions or restraints of any civil or military court, authority or agency (including, without limitation, the Federal Communications Commission), insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods or explosions.

6. The Parties agree that this Stipulation represents a negotiated compromise of opposing views, and that each term of this Stipulation is an integral part of the whole. If this Stipulation is not accepted in full by the Commission, each Party reserves the right to oppose any aspect of the Joint Stipulation, including those aspects which the Commission has accepted without modification.

7. The Parties agree that by signing this Joint Stipulation, no Party binds itself in any way with respect to the position that Party may take for future years regarding the appropriate use of Federal Universal Service Funding received by Verizon WV, including without limitation the appropriate level of Federal Universal Service Credits or of the funding of rural and high cost infrastructure projects. The Parties do explicitly agree, however, that if they are unable to agree for the use of Federal Universal Service funding pursuant to the procedure previously set forth Paragraph 4 of the Commission-approved Stipulated Settlement in Case No. 99-1620-1-GI, any Party may petition the Commission for resolution of the matter, and absent a Commission Order to the contrary, in the interim the then-existing uses of that funding shall be automatically increased or decreased, as the case may be, in proportion to the increase or decrease in the amount of funding available to Verizon WV during the Program Year in question.

8. The Stipulated Settlement previously entered into by the Parties and approved by the Commission in Case No. 00-1855-T-PC (including the incorporation of the Stipulated

Settlement in Case No. 99-1620-T-G1) and Case No. 02-2044-T-PC shall in all other respects remain in effect.

Dated this 28th day of January, 2004

VERIZON WEST VIRGINIA INC.

By: 

STAFF OF THE PUBLIC SERVICE  
COMMISSION OF WEST VIRGINIA

By: 

CONSUMER ADVOCATE DIVISION OF  
THE PUBLIC SERVICE COMMISSION OF  
WEST VIRGINIA

By: 

**Universal Service Fund Credits**

Residential, per Basic Service Line:        \$1.70

Business, per Basic Service Line:        \$1.70



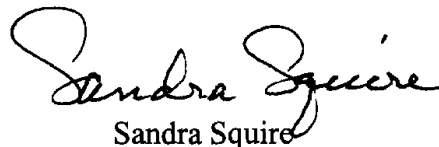
PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

CERTIFICATION OF TRUE COPY

RE: Case No. 04-1260-T-GI  
General Investigation Regarding Certification of  
Federal Universal Service Funding for Eligible  
Telecommunications Carriers in West Virginia

I, Sandra Squire, Executive Secretary of the Public Service Commission of West Virginia, certify that the attached is a true copy of the September 30, 2004 Commission Order in Case No. 04-1260-T-GI, General Investigation Regarding Certification of Federal Universal Service Funding for Eligible Telecommunications Carriers in West Virginia, as the same appear on file and of record in my office.

Given under my hand and the seal of the Public Service Commission of West Virginia, in the City of Charleston, Kanawha County, this 30th day of September, 2004.



Sandra Squire  
Executive Secretary

SS/s  
Attachments

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 30th day of September, 2004.

CASE NO. 04-1260-T-GI

**GENERAL INVESTIGATION REGARDING  
CERTIFICATION OF FEDERAL UNIVERSAL  
SERVICE FUNDING FOR ELIGIBLE  
TELECOMMUNICATIONS CARRIERS IN WEST  
VIRGINIA**

Petition by Staff for the Commission to initiate a general investigation into the certification of federal universal service funding for eligible telecommunications carriers in West Virginia (filed 8/9/04).

**COMMISSION ORDER**

On August 9, 2004, Commission Staff (Staff) filed a petition, pursuant to *W. Va. Code* § 24-1-1(f)(2) and Rule 6.3. of the *Rules of Practice and Procedure*, to initiate a general investigation (GI) regarding the certification of federal universal service funding for eligible telecommunications carriers (ETCs) in West Virginia. Specifically, Staff requested an investigation of whether ETCs are in compliance with Section 254(e)<sup>1</sup> of the Telecommunications Act of 1934, as amended (Act).

On August 23, 2004, the Consumer Advocate Division (CAD) filed a Petition to Intervene, as this proceeding has the potential for impact on West Virginia communication ratepayers.

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<sup>1</sup>This section of the Act states that federal universal service funds received by ETCs must be used "only for the provision, maintenance and upgrading of facilities and services for which the support is intended."

### Use of High Cost Support Certification

By Order entered on August 27, 2004, a general investigation was initiated regarding the disposition of universal service funds for the calendar year 2005, as requested by Staff. The Order directed all incumbent local exchange telecommunications carriers and competitive eligible telecommunications carriers to file verified statements by September 10, 2004, that they use universal service support "only for the provision, maintenance and upgrading of facilities and services for which the support is intended," consistent with Section 254(e) of the Act.<sup>2</sup>

Commission Staff filed a Further Final Joint Staff Memorandum on September 28, 2004, indicating that it received the required information from all those telecommunications carriers in the West Virginia marketplace who are eligible for universal service funding. Staff determined all the carriers who filed information met the qualifications necessary to qualify for universal service fund (USF) funding for the coming year.

In accordance with the Commission's Order, a number of carriers filed statements verifying that federal universal service funding is used only for the provision, maintenance and upgrading of facilities and service for which the support is intended, consistent with Section 254(e) of the Act. These carriers were:

#### August 27, 2004

West Virginia PCS Alliance, L.C. dba NTELOS

#### August 31, 2004

Citizens Telecommunications of West Virginia, Inc.

#### September 1, 2004

Hardy Telecommunications, Inc.(ILEC)

#### September 3, 2004

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<sup>2</sup>47 C.F.R. § 54.313 requires the above-referenced certification for all *non-rural incumbent local exchange carriers* and/or eligible telecommunications carriers serving lines in the service area of a non-rural incumbent local exchange carrier within their jurisdiction. 47 C.F.R. § 54.314 requires such certification for *rural incumbent local exchange carriers* and/or eligible telecommunications carriers serving lines in the service area of a rural incumbent local exchange carrier within their jurisdiction.

Verizon West Virginia, Inc.  
ALLTEL Communications, Inc.

September 7, 2004

Spruce Knob Seneca Rocks Telephone, Inc.

September 8, 2004

Gateway Telecom, LLC, dba Stratus Wave Communications

September 10, 2004

West Side Telecommunications

Armstrong Telephone Company - West Virginia

Armstrong Telephone Company - Northern Division

Easterbrooke Cellular Corporation

Highland Cellular, LLC (formerly Highland Cellular, Inc.)

FiberNet, LLC

Sprint Corporation

Hardy Telecommunications, Inc. (CLEC) (recently named ETC serving  
Moorefield)

September 27, 2004

War Telecommunications

Rate Comparability Certification

A new rate comparability certification is required pursuant to 47 C.F.R. § 54.316<sup>3</sup>, whereby each state annually reviews the comparability of residential rates in rural areas served by *non-rural incumbent* local exchange carriers to urban rates nationwide, and certifies to the FCC and USAC whether the rates are reasonably comparable. With respect to this requirement, on September 3, 2004, Verizon WV filed a Stipulation and Petition for Expedited Approval (Stipulation, attached hereto as Attachment A). The Stipulation was entered into by Verizon WV, Staff and CAD with regard to both Verizon WV's use of USF support, as well as the definition of rural areas served by Verizon WV in West Virginia, the rate template and comparison of rates, and rate comparability. Verizon WV is the only non-rural incumbent local exchange carrier in West Virginia.

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<sup>3</sup>See Federal Communication Commission's Order on Remand, Further Notice of Proposed Rulemaking and Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-249, rel. Oct. 27, 2003.

Furthermore, each of the following carriers filed verifications that their residential rates in the rural areas served by Verizon WV are reasonably comparable to the national urban rate benchmark:

September 3, 2004

Verizon West Virginia, Inc.

September 10, 2004

ALLTEL Communications, Inc.

Easterbrooke Cellular Corporation

Highland Cellular, LLC

Sprint Corporation

September 14, 2004

FiberNet, LLC

September 15, 2004

West Virginia PCS Alliance, L.C. dba NTELOS

Gateway Telecom, LLC, dba Stratus Wave Communications

**DISCUSSION**

The Commission finds CAD's petition to intervene should be granted.

Use of High Cost Support Certification - All Carriers

With regard to the use of USF funds, the Commission finds that the following telecommunications carriers should be certified to receive Federal Universal Service support during January 1, 2005 to December 31, 2005, as they use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended:

1. West Virginia PCS Alliance, L.C. dba NTELOS
2. Citizens Telecommunications of West Virginia, Inc.
3. Hardy Telecommunications, Inc. (CLEC)
4. Hardy Telecommunications, Inc. (ILEC)
5. Verizon West Virginia, Inc.
6. ALLTEL Communications, Inc.
7. Spruce Knob Seneca Rocks Telephone, Inc.

8. Gateway Telecom, LLC, dba Stratus Wave Communications
9. West Side Telecommunications
10. Armstrong Telephone Company - West Virginia
11. Armstrong Telephone Company - Northern Division
12. Easterbrooke Cellular Corporation
13. Highland Cellular, LLC
14. FiberNet, LLC
15. Sprint Corporation
16. War Telecommunications

Rate Comparability Certification - Non-rural ILEC Service Areas

With respect to the requirements of 47 C.F.R. § 54.316, Verizon WV, Staff and CAD proposed the following:

A. The classification of Verizon WV's wire centers as "rural" and "urban" as set forth in Attachment A of the Stipulation is reasonable. This classification differs from a strict application of the definition of "rural areas" found in 47 C.F.R. § 54.316(c), however, it closely matches unbundled network element (UNE) zone determinations previously made by the WVPSC and has been recommended by the parties for use here.

B. The statewide average E-911 rate for non-MSA counties of \$2.02 per month as set forth in Attachment C of the Stipulation is reasonable. This statewide average E-911 rate is used in the rate template required under 47 C.F.R. § 54.316(b), and set forth in Attachment B of the Stipulation. The rates included in the rate template for each residential calling plan are also reasonable.

C. The rates charged by Verizon WV to residential customers in rural areas of West Virginia are comparable to rates charged in urban areas for purposes of 47 U.S.C. § 254(e). As set forth in Attachment B of the Stipulation, three of the four residential calling plans available to all Verizon-WV customers in West Virginia, including those in rural areas, have basic rates which fall below the national urban benchmark of \$34.16 per month set forth in the FCC's *Reference Book on Rates, Price Indices and Expenditures for Telephone Service*, dated July 1, 2004. The fourth calling plan, Frequent Caller, has basic rates that are \$3.44 above the benchmark. Nevertheless, the WVPSC believes that all of Verizon WV's rates in rural areas are reasonably comparable to rates charged in urban areas for the following reasons:

1. Since 1988 the rates charged to residential customers in West Virginia have been uniform throughout the state, that is, they do not vary based on whether the customer is located in an urban wire center or a rural wire center.

2. "Local calling areas" are uniformly defined throughout West Virginia, and consist of all adjacent wire centers and wire centers within 22 air miles of the customer's home wire center. This means that every residential customer in every Verizon WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.

3. Every residential customer in every Verizon WV wire center has the choice of the same four calling plans. Unlike rate plans in other states, residential customers in rural areas are not forced to subscribe to service under only one rate plan. Since the rate plans are optional, no customer is forced to purchase service under any particular plan. Each customer can choose which plan is best for his or her calling needs.

4. Accordingly, Plan 4 is an optional calling plan that provides flat-rate local calling across a very large area. Customers do not have to choose that plan, since there are other alternative calling plans available from Verizon WV and competitive carriers. Moreover, Plan 4 gives customers flat-rate local calling for calls that are normally billed as long distance calls in other, more urban states.

The following carriers have advised the Commission that they support the division of rural and urban areas and the rate template in the Stipulation:

September 10, 2004

Easterbrooke Cellular Corporation  
Highland Cellular, LLC

September 14, 2004

FiberNet, LLC

September 15, 2004

West Virginia PCS Alliance, L.C. dba NTELOS  
Gateway Telecom, LLC, dba Stratus Wave Communications

The Commission has reviewed the Stipulation and finds it is reasonable. Thus, the Stipulation will be adopted.

Additional Rate Comparability Certification - Competitive ETCs

The Commission also reviewed the comparability of the residential rates in rural areas of West Virginia served by *non-rural incumbent* local exchange carriers and competitive ETCs to urban rates nationwide and determined that the following competitive ETCs' rates, as set forth in Attachment B hereto, fall below the national urban benchmark, and thus are reasonably comparable:

1. West Virginia PCS Alliance, L.C. dba NTELOS
2. ALLTEL Communications, Inc.
3. Gateway Telecom, LLC, dba Stratus Wave Communications
4. Easterbrooke Cellular Corporation
5. Highland Cellular, LLC
6. FiberNet, LLC
7. Sprint Corporation

To the extent these carriers also offer calling plans with rates that are above the national urban benchmark, such plans are strictly optional and often include calling features that are not federally supported (such as long distance calling).

**ORDER**

IT IS, THEREFORE, ORDERED that the Consumer Advocate Division's petition to intervene is granted.

IT IS FURTHER ORDERED the following carriers are using Federal Universal Service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended:

1. West Virginia PCS Alliance, L.C. dba NTELOS
2. Citizens Telecommunications of West Virginia, Inc.
3. Hardy Telecommunications, Inc. (ILEC)
4. Hardy Telecommunications, Inc. (CLEC)
5. Verizon West Virginia, Inc.
6. ALLTEL Communications, Inc.
7. Spruce Knob Seneca Rocks Telephone, Inc.



8. Gateway Telecom, LLC, dba Stratus Wave Communications
9. West Side Telecommunications
10. Armstrong Telephone Company - West Virginia
11. Armstrong Telephone Company - Northern Division
12. Easterbrooke Cellular Corporation
13. Highland Cellular, LLC
14. FiberNet, LLC
15. Sprint Corporation
16. War Telecommunications

IT IS FURTHER ORDERED that it is appropriate to certify to the Federal Communications Commission and the Universal Service Administrative Company that the above stated carriers are eligible to continue receiving Federal Universal Service support for calendar year 2005, based on the verified statement submitted to the Commission.

IT IS FURTHER ORDERED that the Stipulation regarding rate comparability between Verizon West Virginia, Inc., Commission Staff and the Consumer Advocate Division, attached hereto as Attachment A, is adopted.

IT IS FURTHER ORDERED that it is appropriate to certify to the Federal Communications Commission and the Universal Service Administrative Company that the residential rates charged by the following competitive eligible telecommunications carriers in rural areas of West Virginia served by Verizon WV are reasonably comparable to urban rates nationwide:

1. West Virginia PCS Alliance, L.C. dba NTELOS
2. ALLTEL Communications, Inc.
3. Gateway Telecom, LLC, dba Stratus Wave Communications
4. Easterbrooke Cellular Corporation
5. Highland Cellular, LLC
6. FiberNet, LLC
7. Sprint Corporation

IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's active docket of cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

TBS/ljm  
041260ca.wpd

A True Copy, Teste:

A handwritten signature in cursive script that reads "Sandra Squire".

Sandra Squire  
Executive Secretary

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

CASE NO. 04-1260-T-PC

GENERAL INVESTIGATION REGARDING  
CERTIFICATION OF FEDERAL UNIVERSAL  
SERVICE FUNDING FOR ELIGIBLE  
TELECOMMUNICATIONS CARRIERS  
IN WEST VIRGINIA

**STIPULATION**

This Stipulation is entered into this 3<sup>rd</sup> day of September, 2004, by and among Verizon West Virginia Inc. ("Verizon WV"), the Staff of the Public Service Commission ("Staff"), and the Consumer Advocate Division of the Public Service Commission ("CAD") (hereinafter collectively called "the Parties"), by their respective counsel.

WHEREAS, the Parties previously entered into a series of Stipulations and Settlements on the annual disposition of federal universal service funds in Case Nos. 99-1620-T-GI, 00-1579-T-GI and 00-1855-T-PC, 01-1646-T-PC, 02-2044-T-PC and 04-0098-T-P; and

WHEREAS, pursuant to 47 C.F.R. §54.313(c)(3), the Commission is required to certify to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") by October 1<sup>st</sup> of each year that all universal service funds received by Verizon WV have been used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, in order that Verizon WV can continue to receive universal service support for the coming year; and

WHEREAS, the next such certification is due on or before October 1, 2004, and will affect funding received in 2005; and

WHEREAS, pursuant to 47 C.F.R. §54.316, the Commission is also required to certify to the FCC and USAC by October 1, 2004, that all residential rates in rural areas served by Verizon WV in West Virginia are reasonably comparable to urban rates, in order that Verizon WV can continue to receive universal service support in 2005; and

WHEREAS, the Parties have met and have agreed (a) that Verizon WV has used all federal universal service funds only for the provision, maintenance and upgrading of facilities and services for which the support is intended; (b) on a definition of rural and urban wire centers served by Verizon WV in West Virginia; (c) on a comparison of Verizon's residential rates in West Virginia to the national urban rate benchmark; and (d) that residential rates in rural areas served by Verizon WV in West Virginia are reasonably comparable to rates in urban areas for purposes of 47 U.S.C §254(b)(3);

NOW, THEREFORE, the Parties do hereby agree and stipulate as follows:

Use of USF Support

1. During 2003 Verizon WV received approximately \$31 million in federal universal service support in West Virginia. Verizon WV used this support only for the provision, maintenance and upgrading of facilities and services for which the support was intended. Approximately \$25 million of this support was returned to ratepayers in the form of monthly rate credits, while approximately \$6 million was used for facilities upgrades in rural wire centers served by Verizon. In addition, Verizon WV provided more than \$4 million in additional construction expenditures from its own funds. All of these credits and expenditures

were approved by the Commission by Orders issued in Case Nos. 02-2044-T-PC and 04-0098-T-P, and have been reviewed periodically by Staff and CAD.

2. The Parties agree that the Commission should certify to the FCC and USAC that all federal universal service funds received by Verizon WV in West Virginia have been used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. Pursuant to 47 C.F.R. §54.313(c)(3) such certification must be filed on or before October 1, 2004, in order for Verizon WV to receive universal service fund support for 2005.

Definition of Rural Areas Served by Verizon WV in West Virginia

3. Beginning October 1, 2004, 47 C.F.R. §54.316(a) requires the Commission to certify that residential rates in rural areas served by Verizon WV in West Virginia are comparable to a national urban rate benchmark. Pursuant to 47 C.F.R. §54.316(c), "rural area" is defined as a county or part of a county that is not included in a Metropolitan Statistical Area (MSA). In the alternative, states may define "rural area" as including any wire center which the state designates as "rural" for purposes of rate comparability. The state must provide an explanation if it deviates from the MSA definition.

4. As a part of the compromise in this Stipulation, and subject to Paragraph 7 below, the Parties hereby jointly recommend that the Commission reject a strict application of the MSA definition to Verizon's West Virginia service area. Under a strict application of the MSA definition, several arguably small rural wire centers would be classified as "urban" while certain arguably urban wire centers would be classified as "rural." In order to divide Verizon's wire centers into "rural" and "urban" for purposes of 47 C.F.R. §54.316(a), the Parties have agreed in this Stipulation on the classification of wire centers as set forth in

Attachment A hereto. All wire centers shown in bold type have been moved from the classification that would have resulted from strict application of MSA definitions in West Virginia.

5. The classification of wire centers set forth in Attachment A results in a rational division of wire centers in West Virginia. As can be seen from review of Attachment A, all wire centers contained in Unbundled Network Element ("UNE") zone 1 (*i.e.*, low cost wire centers) are classified as urban, while all wire centers in UNE zones 3 and 4 are classified as rural. Wire centers contained in UNE zone 2 are divided between urban and rural based on their population densities and demographics. Less dense wire centers in UNE zone 2 with few urban concentrations of population – such as Keyser and Lubeck – were classified as "rural," while wire centers in UNE zone 2 that were urban or –suburban – such as Morgantown and Beckley – were classified as "urban."

6. The Parties jointly urge the Commission to adopt the urban/rural classification of wire centers set forth in Attachment A, and recommend the adoption of this classification in the Commission's certification letter to the FCC and USAC.

7. Without limiting the general applicability of Paragraphs 14 and 15 below, the Parties agree that no party to this Stipulation is prohibited from proposing any other classification of wire centers as "urban" and "rural" in any future year or for any other purpose.

#### Rate Template and Comparison of Rates

8. In order to compare the rates in rural wire centers served by Verizon WV to the national urban rate benchmark, the Parties have followed the rate template set forth in the FCC's annual *Reference Book of Rates, Price Indices and Expenditures for Telephone*

*Service*, dated July 1, 2004, as required by 47 C.F.R. §54.316(b). The results of this comparison are set forth in Attachment B attached hereto.

9. The rates shown on Attachment B include the monthly line charge for each residential calling plan, the average monthly usage for each calling plan, the federal subscriber line charge, the federal universal service credit, the federal universal service surcharge, the local number portability surcharge, the Telecommunications Relay Service surcharge, E-911 surcharge and federal excise tax. There are no state taxes which are applicable to customers' bills. Some municipalities do impose a municipal excise tax of not more than 2% on telephone bills received by customers within the city limits of the municipality. Because these taxes are not imposed by all municipalities, and because these taxes do not apply to all customers within rural wire centers served by Verizon, the Parties have agreed not to include these taxes in the rate template used on Attachment B.

10. The rate template used in Attachment B includes a monthly fee for E-911 service. These fees are determined by each county in West Virginia, are collected by Verizon WV from customers within each county, and remitted to the respective counties. Because the E-911 fee varies from county to county, for purposes of the rate template used in Attachment B, the Parties have agreed to use a statewide average of E-911 fees charged in non-MSA counties served by Verizon. That statewide average is \$2.02 per month. Derivation of this statewide average E-911 fee is shown on Attachment C.

11. The Parties jointly urge the Commission to adopt the use of the statewide average E-911 fee for non-MSA counties as part of the rate template used in Attachment B. The Parties further jointly urge the Commission to adopt the rate template used in Attachment B. The Parties also jointly recommend that the Commission adopt the rate template in its certification letter to the FCC and USAC.

### Rate Comparability

12. As can be seen on Attachment B, Verizon's rates for residential calling plans 1 – 3 fall below the FCC's current urban rate benchmark of \$34.16, while the rates for residential calling plan 4 are \$3.44 above the benchmark. Even though the rates for one of the residential calling plans are above the FCC's urban rate benchmark, the Parties jointly recommend that the Commission find that rates charged in rural areas served by Verizon WV are nonetheless reasonably comparable to rates in urban areas for the following reasons:

a. Since 1988 the rates charged to residential customers in West Virginia have been uniform throughout the state, that is, they do not vary based on whether the customer is located in an urban wire center or a rural wire center.

b. "Local calling areas" are uniformly defined throughout West Virginia. The "local calling area" of customers in each wire center is defined as (i) the customer's home wire center; (ii) all wire centers contiguous to the customer's home wire center; and (iii) every other wire center whose central office is within 22 air miles of the central office of the home wire center. This means that every residential customer in every Verizon WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.

c. Every residential customer in every Verizon WV wire center has the choice of the same four calling plans. Unlike rate plans in other states, residential customers in rural areas are not forced to subscribe to service under only one rate plan. Since the rate plans are optional, no customer is forced to purchase service under any particular plan. Each customer can choose which plan is best for his or her particular calling needs. The basic